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Possession, SCOOBEEZ, SCOOBEEZ GLOBAL,
INC., and SCOOBUR, LLC

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

SCOOBEEZ, et al.¹

Debtors and Debtors in Possession.

Affects:

- ☒ All Debtors
- ☐ Scoobeez, ONLY
- ☐ Scoobeez Global, Inc., ONLY
- ☐ Scoobur LLC, ONLY

Case No. 2:19-bk-14989-WB
Jointly Administered:
2:19-bk-14991-WB; 2:19-bk-14997-WB

Chapter 11

**STIPULATION BETWEEN THE DEBTORS
AND AMAZON LOGISTICS, INC. FOR
LIMITED RELIEF FROM THE
AUTOMATIC STAY**

Hearing:
Date: February 4, 2020
Time: 10:00 a.m.
Place: Courtroom 1375
U.S. Bankruptcy Court
255 East Temple Street
Los Angeles, CA 90012

¹ The Debtors and the last four digits of their respective federal taxpayer identification numbers are as follows: Scoobeez (6339); Scoobeez Global, Inc. (9779); and Scoobur, LLC (0343). The Debtors' address is 3463 Foothill Boulevard, Glendale, California 91214.

Scoobeez, Scoobeez Global, Inc. and Scoobur, LLC, the debtors and debtors-in-possession (collectively, the “Debtors”) in the above-captioned jointly administered bankruptcy proceedings (collectively, the “Chapter 11 Cases”), enter into this stipulation (the “Stipulation”) with Amazon Logistics, Inc. (the “Movant” and together with the Debtors, the “Parties”) for limited relief from stay.

RECITALS

A. On January 9, 2020, the Movant filed its *Notice of Motion and Motion for Relief from the Automatic Stay under 11 U.S.C. § 362* [Doc. No. 534] (the “Motion”).

B. The Motion was duly noticed for hearing on February 4, 2020.

C. By the Motion, the Movant seeks limited relief from stay from stay to with regard to a state court litigation titled *Oberhauser v. Tomchesson, et al.*, which is currently pending in the Texas District Court for the 261st Judicial District, in Travis County, Texas as Case Number D-1-GN-18-0078588 (the “State Court Action”).

D. The Movant and the Debtors are both defendants in the State Court Action. The State Court Action is based on allegations by the Plaintiff of “significant property damage to Plaintiff’s home that occurred when an Amazon delivery van driven by Defendant Tomchesson, a Scoobeez employee, crashed into Plaintiff’s home.” *See* Motion, Ex. 1 (Plaintiff’s Third Amended Petition).

E. The Movant has filed a proof of claim based on asserted indemnity claims against the Debtors in relation to the State Court Action. (Claim No. 23). The Movant has also filed a proof of claim on behalf of the State Court Action plaintiff pursuant to Fed.R.Bankr.P. 3005(a). Claim No. 39.

F. The Movant and Debtors are being defended in the State Court Action by insurance counsel.

G. The Movant seeks a modification of the automatic in order to allow the State Court Action to proceed to judgment or settlement.

H. The Motion provides that the “Movant seeks recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or property of the Debtor’s bankruptcy estate.” (Motion, ¶ 4.a.).

I. The Debtors and Movant wish to stipulate to limited relief from stay as provided herein.

J. In accordance with the recitals set forth herein, the Debtors and Movant stipulate and agree as set forth below.

STIPULATION

Wherefore, the Debtor and the Movant hereby stipulate as follows:

1. The automatic stay shall be modified to allow the State Court Action to proceed to final judgment, provided that the stay shall remain in effect with respect to enforcement of any judgment against the Debtor or property of the Debtors' bankruptcy estates, except as to any applicable insurance coverage.

2. As to the State Court Action and claims based on the State Court Action, Movant waives any deficiency or other claim against the Debtors or property of the Debtors' bankruptcy estates except as to recovery from applicable insurance.

3. To the extent that the Movant or the State Court Action plaintiff asserts a claim in the bankruptcy case for payment of any amounts or obligations related to the State Court Action that are not covered by applicable insurance, the Debtors preserve all rights to object to any such claim.

4. The scope of this Stipulation is limited to the State Court Action and claims based thereon, and is without prejudice to the rights of the Parties as to any other matters.

5. The Parties respectfully request entry of an order approving this Stipulation and granting the relief stipulated to herein, without further notice pursuant to Rule 4001(d)(4) of the Federal Rules of Bankruptcy Procedure.

6. Upon execution of this Stipulation by the Parties, the Debtors shall promptly file this Stipulation with the Court and seek entry of an order in the form agreed by the Parties.

7. Provided that the Court enters the order requested in this stipulation prior to February 4, 2020, the Parties request the Parties request that the hearing on the Motion currently scheduled for February 4, 2020, at 10:00 a.m. be taken off calendar.

8. The Court shall retain jurisdiction over any disputes arising from or related to the order entered pursuant to this Stipulation.

[Signatures on following page]

1 **SO STIPULATED:**

2 Dated: January 21, 2020

FOLEY & LARDNER, LLP

3 /s/ Shane J. Moses
4 Shane J. Moses

5 Attorneys for Debtors and Debtors-in-Possession,
6 Scoobeez, Scoobeez Global, Inc., and Scoobur, LLC

7
8
9 Dated: January 21, 2020

MORGAN, LEWIS & BOCKIUS LLP

10 
11 Richard W. Esterkin

12 Attorneys for Amazon Logistics, Inc.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Foley & Lardner LLP, 555 South Flower Street, Suite 3300, Los Angeles, CA 90072-2411

A true and correct copy of the foregoing document entitled (*specify*): **STIPULATION BETWEEN THE DEBTORS AND AMAZON LOGISTICS, INC. FOR LIMITED RELIEF FROM THE AUTOMATIC STAY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 01/28/2020, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 01/28/2020, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Honorable Julia W. Brand
United States Bankruptcy Court
Central District of California
Edward R. Roybal Federal Building and Courthouse
255 E. Temple Street, Suite 1382
Los Angeles, CA 90012

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

01/28/2020
Date

Sonia Gaeta
Printed Name

/s/ Sonia Gaeta
Signature

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

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